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## NOTICE OF ALLOWANCE AND FEE(S) DUE

7590

07/27/2004

Mary L Miller Needle & Rosenberg 127 Peachtree Street N E Suite 1200 Atlanta, GA 30303-1811

EXAMINER

PAPER NUMBER

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FOLEY, SHANON A

ART UNIT

1648 DATE MAILED: 07/27/2004

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/937 862	09/28/2001	Steven Oberste	14114 0353112	8841

TITLE OF INVENTION: TYPING OF HUMAN ENTEROVIRUSES

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1330	\$0	\$1330	10/27/2004

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

#### HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

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- B. If the status above is to be removed, check box 5b on Part B -Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

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- B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmi hand pay the PUBLICATION FEE (if required) and 1/2 the ISS E shown above.
- II. PART B FEE(S) TRANSMITTAL should be completed and returned to the your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) has completed and returned. If you are charging the fee(s) to your deposit accompleted and returned. ited States Patent and Trademark Office (USPTO) with ready been paid, Part B - Fee(s) Transmittal should be section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.
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Complete and send this form; together with applicable fee(s); to: Mail Mail Stop ISSUE FEE

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(703) 746-4000 or <u>Fax</u> INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address) Note: A certificate of mailing can only be used for domestic mailings of the Fec(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission. 7590 07/27/2004 Mary L Miller Certificate of Mailing or Transmission I hereby certify that this Fec(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (703) 746-4000, on the date indicated below. Needle & Rosenberg 127 Peachtree Street N E Suite 1200 Atlanta, GA 30303-1811 (Depositor's name (Signature (Date) APPLICATION NO. FILING DATE FIRST NAMED INVENTOR ATTORNEY DOCKET NO. CONFIRMATION NO. 09/937,862 09/28/2001 Steven Oberste 14114.0353U2 8841 TITLE OF INVENTION: TYPING OF HUMAN ENTEROVIRUSES APPLN, TYPE SMALL ENTITY ISSUE FEE PUBLICATION FEE TOTAL FEE(S) DUE DATE DUE NO nonprovisional \$1330 \$0 \$1330 10/27/2004 EXAMINER ART UNIT CLASS-SUBCLASS FOLEY, SHANON A 1648 435-005000 Change of correspondence address or indication of "Fee Address" (37 CFR 1.363). 2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively,  $\ensuremath{\square}$  Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached. (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required. 3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type) PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment. (A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY) Please check the appropriate assignce category or categories (will not be printed on the patent); ☐ individual ☐ corporation or other private group entity government 4a. The following fee(s) are enclosed: 4b. Payment of Fcc(s): ☐ Issue Fee A check in the amount of the fee(s) is enclosed. ☐ Publication Fee (No small entity discount permitted) Payment by credit card. Form PTO-2038 is attached. ☐ Advance Order - # of Copies ☐ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number \_\_\_\_\_\_ (enclose an extra copy of this form). 5. Change in Entity Status (from status indicated above) ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is not claiming SMALL ENTITY status. Sec, e.g., 37 CFR 1.27(g)(2). The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above. NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office. (Authorized Signature) (Date)

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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APPLICATION NO. FILING DATE FIRST NAMED INVENTOR ATTORNEY DOCKET NO. CONFIRMATION NO. 09/937,862 09/28/2001 14114.0353U2 Steven Oberste 8841 7590 07/27/2004 **EXAMINER** Mary L Miller FOLEY, SHANON A Needle & Rosenberg ART UNIT 127 Peachtree Street N E Suite 1200 PAPER NUMBER Atlanta, GA 30303-1811 1648

DATE MAILED: 07/27/2004

# **Determination of Patent Term Extension under 35 U.S.C. 154 (b)**

(application filed after June 7, 1995 but prior to May 29, 2000)

The Patent Term Extension is 0 day(s). Any patent to issue from the above-identified application will include an indication of the 0 day extension on the front page.

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Extension is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (703) 305-1383. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

,	Application No.	Applicant(s)									
	09/937,862	OBERSTE ET AL.									
Notice of Allowability	Examiner	Art Unit									
	Shanon Foley	1648									
The MAILING DATE of this communication appe All claims being allowable, PROSECUTION ON THE MERITS IS herewith (or previously mailed), a Notice of Allowance (PTOL-85) NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIG	OR REMAINS) CLOSED in this a or other appropriate communicati GHTS. This application is subjec	application. If not included on will be mailed in due course. <b>THIS</b>									
1. This communication is responsive to <u>7/9/2004</u> .											
2. The allowed claim(s) is/are 1,2 and 6-11.											
3. $\boxtimes$ The drawings filed on <u>28 September 2001</u> are accepted by	the Examiner.										
<ul> <li>4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). <ul> <li>a)  All b)  Some* c)  None of the:</li> <li>1.  Certified copies of the priority documents have been received.</li> <li>2.  Certified copies of the priority documents have been received in Application No</li> <li>3.  Copies of the certified copies of the priority documents have been received in this national stage application from International Bureau (PCT Rule 17.2(a)).</li> <li>* Certified copies not received:</li> </ul> </li> <li>Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requiremen noted below. Failure to timely comply will result in ABANDONMENT of this application.</li> <li>THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.</li> </ul>											
5. A SUBSTITUTE OATH OR DECLARATION must be submit INFORMAL PATENT APPLICATION (PTO-152) which gives											
6. $\square$ CORRECTED DRAWINGS ( as "replacement sheets") must	4										
(a) ☐ including changes required by the Notice of Draftsperso	on's Patent Drawing Review ( PT0	O-948) attached									
<ol> <li>1)  hereto or 2)  to Paper No./Mail Date</li> <li>(b)  including changes required by the attached Examiner's Paper No./Mail Date</li> <li>Identifying indicia such as the application number (see 37 CFR 1.8)</li> </ol>											
each sheet. Replacement sheet(s) should be labeled as such in the											
<ol> <li>DEPOSIT OF and/or INFORMATION about the depos attached Examiner's comment regarding REQUIREMENT F</li> </ol>											
Attachment(s)  1. ☑ Notice of References Cited (PTO-892)  2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)  3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08	6.	ate									
Paper No./Mail Date4.  Examiner's Comment Regarding Requirement for Deposit	<del></del>	nent of Reasons for Allowance									
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## **EXAMINER'S AMENDMENT**

It is currently noted that claim 2 of the instant amendment is dependent on claim 1 and that in the previous amendment, claim 2 was inadvertently dependent upon itself. It is determined that this claim has never been amended since the instantly presented claim 2 is an exact copy of the originally presented claim 2.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Gwendolyn D. Spratt (Registration No. 36,016) on July 23, 2004.

The application has been amended as follows to correct inadvertently omitted words in the amendment submitted July 9, 2004:

In claim 1, line 3, --<u>RNA</u>-- was inserted after "purifying".

In claim 1, line 4, --transcribing-- was inserted after "reverse".

In claim 1, line 5, --provide-- was inserted after "to".

In addition, claim 8 has been amended to depend on claim 1 to avoid repetition of the limitations recited in claim 7.

The following is an examiner's statement of reasons for allowance:

Application/Control Number: 09/937,862

Art Unit: 1648

As stated previously, the prior art does not teach or suggest a primer comprising SEQ ID NO: 19 or using a primer comprising SEQ ID NO: 22 with a primer comprising SEQ ID NO: 19.

The prior art also does not teach or suggest the use of SEQ ID NO: 86 in combination with SEQ ID NO: 83, SEQ ID NO: 84 or SEQ ID NO: 85. The prior art does not teach or suggest SEQ ID NO: 83 or SEQ ID NO: 84.

Regarding SEQ ID NO: 85, US 6,551,795 teaches SEQ ID NO: 19947, which has 100% sequence identity to the instant SEQ ID NO: 85, see the sequence alignment provided. However, US 6,551,795 does not teach or suggest this sequence in combination with the instant SEQ ID NO: 86.

In addition, the sequence of SwissProt database accession no: P12915 submitted October 1, 1998, possesses 100% sequence identity to the instant SEQ ID NO: 85, see the sequence alignment provided. However, there is no teaching or suggestion for using this sequence in combination with SEQ ID NO: 86, which is required by the instant claim 6.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shanon Foley whose telephone number is (571) 272-0898. The examiner can normally be reached on M-F 9:30 AM - 6:00 PM.

Application/Control Number: 09/937,862

Art Unit: 1648

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Housel can be reached on (571) 272-0902. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Shanon Fol

Patent Examiner, 1648

# Notice of References Cited Application/Control No. | Applicant(s)/Patent Under Reexamination OBERSTE ET AL. | Examiner | Art Unit | Page 1 of 1

## **U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	Α	US-			
	В	US-			
	С	US-			
	D	US-			
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#### FOREIGN PATENT DOCUMENTS

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## **NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	sequence alignment of instant SEQ ID NO: 85 with SEQ ID NO: 19947 of US Patent 6,551,795 in the Issued Patents AA database with an earliest prior filing date of February 18, 1998.
	٧	sequence alignment of instant SEQ ID NO: 85 with SwissProt database accession no: P12915 submitted October 1, 1998.
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\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)

Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

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RESULT 1
US-09-252-991A-19947
US-09-252-991A
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GENOME-LINKED PROTEIN VPG.
PICORNAIN 3C.
RNA-DEPENDENT RNA POLYMERASE P3D.
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                                                                          Smyth M., Tate J., Hoey E.M., Lyons C., Martin S.J., Stuart D. Implications for viral uncoating from the structure of bovine
                                 X-RAY CRYSTALLOGRAPHY (3.0 ANGSTROMS) OF 2-840.
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